

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1553 of 1984

Date of decision:02-09-96

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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K S DIESELS LTD

Versus

REGIONAL PROVIDENT FUND                      COMMISSIONER  
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Appearance:

MR SI NANAVATI for Petitioners

None present for respondent  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/09/96

ORAL JUDGEMENT

Heard the learned counsel for the petitioners.

The petitioner No.1, a company incorporated and registered under the provisions of the Companies Act, 1956 having its registered office at Bombay and factory at Ajit Industrial Estate, Rajkot, filed this petition challenging the order dated 27-10-83 made by the respondent under section 14B of the Employees' Provident

Funds and Miscellaneous Provisions Act, 1952 ('the Act').

2. Under the said order damages for delay in payment of the amount of contribution under the Act have been levied under section 14B of the Act. The respondent has taken reasonable approach in the case and damages have been levied at reasonable rate. In a case where there is second or third default damages may be levied at the rate of 10 to 15 per cent of the amount of contribution delayed. In case of seven to eight defaults damages have been levied at the rate of 35 to 40% of the amount of contribution delayed for payment. If we see the delay made in the present case, it varies from 12 days to one month. Taking into consideration totality of the facts of the present case, the respondent has passed just and reasonable order. It is a case of habitual default. As the petitioner company is in the habit of committing defaults the matter should have been taken seriously, but the respondent has taken lenient view. The order made under section 14B of the Act is not appealable.

3. The counsel for the petitioner has failed to make out illegality in the order made by the Regional Provident Fund Commissioner. This court sitting under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship and wrong decisions. Here is a case where the petitioner is a habitual defaulter in making payment of contribution. In case interference is made it may cause hardship to poor persons who get benefit from the scheme.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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